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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,527	03/29/2004	Fred Naval Desai	8768MD2	1921

27752 7590 12/21/2006  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER
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HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/21/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/811,527	<b>Applicant(s)</b> DESAI ET AL.	
	<b>Examiner</b> Melanie J. Hand	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8-10 and 12-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed August 7, 2006 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding the rejection of claims 1, 5, 6, 8-10, 12-15 and 23-27 as anticipated by Odorzynski, in response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an elastic component comprising an elastic substrate upon which an elastomeric composition is disposed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 merely sets forth a first substrate with the elastic composition deposited thereon and does not specifically claim an elastomeric substrate. With respect to applicant's argument that Odorzynski does not teach at least two differing elements, Examiner disagrees. By teaching slot coating, Odorzynski is teaching at least two differing individual elements being applied to a component. Examiner states this in the rejection of claim 12, i.e. that the elements differ in their spacing from adjacent elements. That is, when a composition is slot coated onto a substrate in a manner in which discrete rectilinear stripes of the composition are formed, the spacing between adjacent elements in the machine direction is less than the spacing between adjacent elements in the cross-direction.

Applicants' arguments with regard to dependent claims 2-6, 8-10 and 12-27 have been fully considered but are not persuasive as Applicants' arguments depend entirely on Applicants' arguments regarding the rejection of claim 1, which have been addressed *supra*.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 5, 6, 8-10, 12-15, 17 and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Odorzynski et al (U.S. Patent No. 6,245,050).

With respect to **Claims 1,5-7,10,11**: Odorzynski teaches diaper 10 comprising backsheet 12, topsheet 14 and absorbent core 16. Elastomeric hot melt adhesive is applied to at least any one of the components of diaper 10, e.g. backsheet 12. The adhesive is applied via slot coating and therefore forms a continuous geometric pattern of rectilinear or curvilinear stripes on the diaper component substrate with a predetermined spacing between stripes. Since the backsheet 12 is a nonwoven thermoplastic film and the adhesive is a hot melt adhesive, Examiner asserts that the adhesive is capable of being applied to the substrate in such a manner as to be partially penetrate said substrate.

With respect to **Claims 8,9**: Odorzynski teaches an elasticized area width of 1.27-7.62 mm and a thickness of 2.54 –25.4 mm. (Col. 6, lines 52-58)

With respect to **Claim 12**: Since Odorzynski teaches slot coating, the at least two elements differ in their spacing from adjacent elements, i.e. the spacing between adjacent elements in the machine direction is less than the spacing between adjacent elements in the cross direction.

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With respect to **Claims 13,14**: Odorzynski teaches strands or ribbons of the adhesive film that are applied to define an elasticized area, therefore the strands must overlap to form boundaries and a continuous elasticized area within the boundaries. (Col. 6, lines 21-27)

With respect to **Claim 15**: Odorzynski teaches waist elastics 38, leg cuffs 36 and fastening tabs 40 manufactured from the same adhesive film composition, therefore a component of diaper 10 having the elastic composition therein has an additional elastic material that is capable of being manufactured from an alternate suitable elastomeric adhesive.

With respect to **Claim 17**: Odorzynski teaches applying the elastic adhesive composition to at least one component of diaper 20. (Col 5, lines 49-51)

With respect to **Claims 23,24**: Odorzynski teaches that backsheet 12 is comprised of a nonwoven polyethylene web. (Col. 2, lines 35-38)

With respect to **Claim 25**: Odorzynski teaches that the component of the diaper containing the adhesive is necked. (Col. 6, lines 1-7)

With respect to **Claims 26,27**: Odorzynski teaches the elastic adhesive in film form sandwiched between the topsheet and backsheet to form an elasticized area. (Col. 5, lines 63-67)

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odorzynski ('050).

With respect to **Claim 16**: Odorzynski teaches selecting the viscosity of the adhesives that can involve mixing adhesives as well as heating them. Odorzynski does not explicitly teach two different adhesives, however Odorzynski does teach applying the adhesives either by spray coating or film forming (Col. 6, lines 13-20) which would allow the application of different elastic adhesive compositions to one substrate. Examiner asserts therefore that it would be obvious to modify the adhesive area taught by Odorzynski so as to be comprised of two different adhesive compositions applied in two different patterns.

With respect to **Claims 18,19,20,22**: Odorzynski does not explicitly teach different elastic adhesives disposed on different components of diaper 10. However, since Odorzynski teaches various application methods for the elastic adhesive composition, various suitable materials for the composition itself, and teaches applying an adhesive to at least one component of diaper 10 (e.g. fastening tabs 40 to topsheet 14), it would be obvious to one of ordinary skill in the art to apply different adhesives in different patterns to different components of diaper 10, said differing adhesives exhibiting different elastic properties.

With respect to **Claim 21**: Fastening tabs 40 comprising an elastic adhesive form a right angle with topsheet 14 containing an elastic adhesive. (Fig. 1)

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odorzynski ('050) in view of Himes (U.S. Patent No. 5,304,599).

With respect to **Claims 2-4**: Odorzynski does not teach a percent set for the elastomeric adhesive. Himes teaches an extrudable elastomeric composition including an elastomeric polymer and a tackifying resin having a percent set of 9%. ('599, Table 4). Himes teaches that this composition is suitable for extrusion onto an elastic sheet, therefore it would be obvious to substitute the composition taught by Himes for the adhesive composition as taught by Odorzynski so as to have a backsheet with the adhesive composition therein having a percent set of 9%.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH  
October 13, 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER  




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